



**Testimony before the Labor Committee in Support of  
HB 6594, AAC Noncompete Agreements  
February 7, 2023**

Good morning Senator Kushner, Representative Sanchez and distinguished members of the Labor Committee. Thank you for the opportunity to testify today in support of HB 6594, AAC Noncompete Agreements. My name is Sara Parker McKernan and I am a Legislative/Policy Advocate, for CT's Legal Services Programs which include New Haven Legal Assistance, Greater Hartford Legal Aid and CT Legal Services. The Legal Services Programs provide free legal services to low income individuals in civil matters throughout the state. We have been particularly involved in developing policy to support low wage workers and their families.

We support HB 6594 which, among other things, prohibits noncompete agreements for those employees earning less than three times the hourly minimum wage (CT's minimum wage is currently \$14 an hour or \$29,120 annually for full time workers). This proposal addresses the growing problem of low-wage workers who are forced to sign noncompete agreements prohibiting them from doing similar work after leaving an employer.

Low wage workers often feel unable to find new and better jobs because of noncompete clauses. Most employees in CT are considered at-will and have very limited bargaining power in their work environment since they can be terminated without cause. A noncompete agreement heightens a low wage employee's fear of violating their employment contracts. Workers very often assume that noncompete agreements are valid and enforceable and lack the financial resources to hire an attorney to challenge these agreements.

Noncompete agreements prohibit employees from engaging in a particular occupation or type of work for a defined period of time and often in a defined geographic area, after separating from an employer. Traditionally, noncompete covenants were intended to protect an employer's competitive advantage by preventing more highly trained and compensated employees from taking a job at a competing business and disclosing specialized knowledge or skills acquired at the former employer.

In recent years however, employers have required low wage workers, including fast food workers, commercial cleaners, and home health aides, to sign covenants not to

compete. These workers do not have specialized technical skills and are not privy to trade secrets held by higher paid employees.

Even a one-year restriction on engaging in the same type of work in a 10 to 15 mile area can adversely impact employment opportunities. Many low wage workers do not have skills adaptable to other jobs and depend on public transportation. Non-compete agreements can prevent workers from seeking or accepting better jobs with higher wages. Because of these negative consequences, 27 states, including Massachusetts, New York, Maine and New Hampshire, have restricted employers' ability to require non-compete covenants in some way.

It's important to note that HB 6594 contains provisions that help all workers in the workplace – not just low income workers. HB 6594 extends the prohibition on noncompete agreements to some independent contractors. It also limits an employer's ability to forbid workers and contractors from working a second job.

However, HB 6594 also balances constraints on employers with constraints on workers by:

- Allowing noncompete covenants to protect legitimate business interests such as trade secrets, confidential information or good will with customers;
- Forbidding workers from soliciting a former employer's prior customers or workers after separating;
- Permitting non-solicitation clauses and exclusivity agreements containing reasonable parameters.

In January of 2023, the Federal Trade Commission proposed a new rule to ban the imposition of noncompetes after finding that they constitute an unfair method of competition. Importantly, the potential for federal action does not make enactment of state legislation moot. Enactment of a federal rule is not only time consuming but will most likely be subject to extensive legal and Congressional challenges to its implementation.

Additionally, the Legal Services Programs are asking that the attached substitute language be incorporated for purposes of clarification.

We urge the Committee to pass HB 6594, which protects low wage workers who often live paycheck-to-paycheck, from covenants not to compete.

**PROPOSED SUBSTITUTE LANGUAGE FOR HB 6594:**

Section 2(b):

No covenant not to compete shall be **[un]**enforceable against a worker if such worker is (1) an employee whose **[monetary compensation] hourly wage** is less than three times the minimum fair wage, or (2) an independent contractor whose **[monetary compensation] hourly wage** is less than five times such minimum fair wage.